MOTION FILED
FEB 10 1978

IN THE

Supreme Court of the United States

October Term, 1976
No. 73, Original

STATE OF CALIFORNIA,

Plaintiff,

vs.

STATE OF NEVADA,

Defendant.

Motion for Leave to File Brief Amicus Curiae on Behalf of California State Assemblyman Mike Cullen, Together With Brief Amicus Curiae.

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Assemblyman MIKE CULLEN, a member of the California Legislature, respectfully moves the Court for leave to file the accompanying brief *amicus curiae* in this case.

Movant is the author of Assembly Concurrent Resolution 34 passed by the Legislature and reprinted in plaintiff's Motion for Leave to File Complaint and in this Motion as Exhibit "A." This resolution urged the Attorney General to defend the Eastern boundary of California set forth in the 1849 California Constitution.

Since any judicial determination of the California-Nevada geographical boundary north of the 39° parallel in this case may impact the tax revenues of the state of California subject to appropriation by the Legisla-

ture, movant has a direct interest in the case as a representative of the people of California.

Movant believes, from a clear reading of the Complaint, that plaintiff has unwisely restricted its prayer by urging the Court to select an admittedly erroneous boundary surveyed in the last century. In effect, the Court is asked to perpetuate an error of the past and ignore evidence of an accurate alternative. The Court can order a precise measurement of described boundary, *i.e.*, 120th West Meridian, rather than engaging in the judicial legislation of selecting an inaccurate survey line.

Since neither boundary prayed for in the pleadings conforms with the boundary described in the California Constitution of 1849 approved by the Congress, *i.e.*, the 120th meridian of west longitude, movant seeks standing to brief this point in order that the Court will have a complete range of rational alternatives from which to render its judgment.

WHEREFORE, it is respectfully prayed that this Motion for Leave to file the annexed Brief Amicus Curiae be granted.

Respectfully submitted,

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